



**6560.50**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R08-OAR-2011-0636; FRL-9488-9]**

**Approval and Promulgation of State Implementation Plans; State of Utah; Smoke Management Requirements for Mandatory Class I Areas**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed Rule.

**SUMMARY:** EPA is proposing to approve a State Implementation Plan (SIP) revision package submitted by the State of Utah on September 29, 2011. The September 29, 2011 revision establishes rule R307-204 of the Utah Administrative Code (UAC). R307-204 contains smoke management requirements for land managers within the State of Utah as required by regulations for regional haze. The September 29, 2011 submittal supersedes and replaces R307-204 submitted as part of the State's December 12, 2003 Regional Haze (RH) SIP. The September 29, 2011 submittal also supersedes and replaces the State's May 8, 2006 submittal of R307-204.

EPA is also proposing to partially approve a SIP revision submitted by the State of Utah on May 26, 2011. Specifically, EPA is proposing to approve section XX.G of the State's RH SIP which contains the State's long-term strategy for fire programs as required by the regulations. The May 26, 2011 submittal supersedes and replaces SIP revisions to section XX.G of the RH SIP submitted by the State on December 12, 2003 and September 9, 2008. This action is being taken under section 110 of the Clean Air Act (CAA).

**DATES:** Comments must be received on or before [Insert date 30 days after publication in the Federal Register].

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R08-OAR-2011-

0636, by one of the following methods:

- <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- E-mail: [dygowski.laurel@epa.gov](mailto:dygowski.laurel@epa.gov)
- Fax: (303) 312-6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).
- Mail: Carl Daly, Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129.
- Hand Delivery: Carl Daly, Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 1595 Wynkoop, Denver, Colorado 80202-1129. Such deliveries are only accepted Monday through Friday, 8:00 a.m. to 4:30 p.m., excluding Federal holidays. Special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA-R08-OAR-2011-0636.

EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment

directly to EPA, without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I. General Information of the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly-available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 1595 Wynkoop, Denver, Colorado 80202-1129. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Laurel Dygowski, Air Program, U.S. Environmental Protection Agency, Region 8, Mailcode 8P-AR, 1595 Wynkoop, Denver, Colorado 80202-1129, (303) 312-6144, [dygowski.laurel@epa.gov](mailto:dygowski.laurel@epa.gov).

**SUPPLEMENTARY INFORMATION:**

## **Definitions**

For the purpose of this document, we are giving meaning to certain words or initials as follows:

- (i) The words or initials Act or CAA mean or refer to the Clean Air Act, unless the context indicates otherwise.
- (ii) The words EPA, we, us or our mean or refer to the United States Environmental Protection Agency.
- (iii) The initials SIP mean or refer to State Implementation Plan.
- (iv) The words Utah and State mean the State of Utah.

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### **I. General Information**

What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit CBI to EPA through <http://www.regulations.gov> or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- a. Identify the rulemaking by docket number and other identifying information (subject heading, Federal Register date and page number).
- b. Follow directions - The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- c. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- d. Describe any assumptions and provide any technical information and/or data that you used.
- e. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- f. Provide specific examples to illustrate your concerns, and suggest alternatives.
- g. Explain your views as clearly as possible, avoiding the use of profanity or

personal threats.

- h. Make sure to submit your comments by the comment period deadline identified.

## **II. Background**

### **A. Introduction to the Regional Haze Rule**

Regional haze is visibility impairment that is produced by a multitude of sources and activities which are located across a broad geographic area and emit fine particles (PM<sub>2.5</sub>) (e.g., sulfates, nitrates, organic carbon, elemental carbon, and soil dust), and their precursors (e.g., SO<sub>2</sub>, NO<sub>x</sub>, and in some cases, ammonia (NH<sub>3</sub>) and volatile organic compounds (VOC)). Fine particle precursors react in the atmosphere to form fine particulate matter which impairs visibility by scattering and absorbing light. Visibility impairment reduces the clarity, color, and visible distance that one can see. PM<sub>2.5</sub> can also cause serious health effects and mortality in humans and contributes to environmental effects such as acid deposition and eutrophication.

Data from the existing visibility monitoring network, the “Interagency Monitoring of Protected Visual Environments” (IMPROVE) monitoring network, show that visibility impairment caused by air pollution occurs virtually all the time at most national park and wilderness areas. The average visual range<sup>1</sup> in many Class I areas (i.e., national parks and memorial parks, wilderness areas, and international parks meeting certain size criteria) in the western United States is 100-150 kilometers, or about one-half to two-thirds of the visual range that would exist without anthropogenic air pollution. In most of the eastern Class I areas of the United States, the average visual range is less than 30 kilometers, or about one-fifth of the visual range that would exist under estimated natural conditions. (64 FR 35715).

### **B. Requirements of the CAA and EPA’s Regional Haze Rule (RHR)**

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<sup>1</sup>Visual range is the greatest distance, in kilometers or miles, at which a dark object can be viewed against the sky.

In section 169A of the 1977 Amendments to the CAA, Congress created a program for protecting visibility in the nation's national parks and wilderness areas. This section of the CAA establishes as a national goal the "prevention of any future, and the remedying of any existing, impairment of visibility in mandatory Class I Federal areas<sup>2</sup> which impairment results from manmade air pollution." Congress added section 169B to the CAA in 1990 to address regional haze issues. EPA promulgated a rule to address regional haze on July 1, 1999 (64 FR 35713), the regional haze rule (RHR). The RHR revised the existing visibility regulations to integrate into the regulation provisions addressing regional haze impairment and established a comprehensive visibility protection program for Class I areas. The requirements for regional haze, found at 40 CFR 51.308 and 51.309, are included in EPA's visibility protection regulations at 40 CFR 51.300-309. The requirement to submit a regional haze SIP applies to all 50 states, the District of Columbia and the Virgin Islands.<sup>3</sup> 40 CFR 51.308(b) and 40 CFR 51.309(c) required states to submit the first implementation plan addressing regional haze visibility impairment no later than December 17, 2007.

### **C. Roles of Agencies in Addressing Regional Haze**

Successful implementation of the regional haze program will require long-term regional coordination among states, tribal governments and various federal agencies. As noted above, pollution affecting the air quality in Class I areas can be transported over long distances, even

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<sup>2</sup>Areas designated as mandatory Class I Federal areas consist of national parks exceeding 6000 acres, wilderness areas and national memorial parks exceeding 5000 acres, and all international parks that were in existence on August 7, 1977. 42 U.S.C. 7472(a). In accordance with section 169A of the CAA, EPA, in consultation with the Department of Interior, promulgated a list of 156 areas where visibility is identified as an important value. 44 FR 69122 (November 30, 1979). The extent of a mandatory Class I area includes subsequent changes in boundaries, such as park expansions. 42 U.S.C. 7472(a). Although states and tribes may designate as Class I additional areas which they consider to have visibility as an important value, the requirements of the visibility program set forth in section 169A of the CAA apply only to "mandatory Class I Federal areas." Each mandatory Class I Federal area is the responsibility of a "Federal Land Manager." 42 U.S.C. 7602(i). When we use the term "Class I area" in this action, we mean a "mandatory Class I Federal area."

<sup>3</sup>Albuquerque/Bernalillo County in New Mexico must also submit a regional haze SIP to completely satisfy the requirements of section 110(a)(2)(D) of the CAA for the entire State of New Mexico under the New Mexico Air Quality Control Act (section 74-2-4).

hundreds of kilometers. Therefore, to effectively address the problem of visibility impairment in Class I areas, states need to develop strategies in coordination with one another, taking into account the effect of emissions from one jurisdiction on the air quality in another.

Because the pollutants that lead to regional haze can originate from sources located across broad geographic areas, EPA has encouraged the states and tribes across the United States to address visibility impairment from a regional perspective. Five regional planning organizations (RPOs) were developed to address regional haze and related issues. The RPOs first evaluated technical information to better understand how their states and tribes impact Class I areas across the country, and then pursued the development of regional strategies to reduce emissions of particulate matter (PM) and other pollutants leading to regional haze.

The Western Regional Air Partnership (WRAP) RPO is a collaborative effort of state governments, tribal governments, and various federal agencies established to initiate and coordinate activities associated with the management of regional haze, visibility and other air quality issues in the western United States. WRAP member State governments include: Alaska, Arizona, California, Colorado, Idaho, Montana, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming. Tribal members include Campo Band of Kumeyaay Indians, Confederated Salish and Kootenai Tribes, Cortina Indian Rancheria, Hopi Tribe, Hualapai Nation of the Grand Canyon, Native Village of Shungnak, Nez Perce Tribe, Northern Cheyenne Tribe, Pueblo of Acoma, Pueblo of San Felipe, and Shoshone-Bannock Tribes of Fort Hall.

#### **D. Development of the Requirements for 40 CFR 51.309**

EPA's RHR provides two paths to address regional haze. One is 40 CFR 51.308 (Section 308), and requires states to perform source by source BART determinations and evaluate the



need for other control strategy development. These strategies must be shown to make “reasonable progress” in improving visibility in Class I areas inside the state and in neighboring jurisdictions. The other path states may take to address regional haze is 40 CFR 51.309 (Section 309), and is an option for nine states termed the “transport region states” which includes: Arizona, California, Colorado, Idaho, Nevada, New Mexico, Oregon, Utah, and Wyoming, and the 211 Tribes located within those states. Section 309 requires states to adopt regional haze strategies that are based on recommendations from the Grand Canyon Visibility Transport Commission (GCVTC) for protecting the 16 Class I areas in the Colorado Plateau area<sup>4</sup>. GCVTC recommendations included strategies for addressing smoke emissions from wildland fires and agricultural burning, provisions to prevent pollution by encouraging renewable energy development, provisions regarding clean air corridors, mobile sources, and wind-blown dust, among other things. The EPA codified these recommendations as part of the 1999 RHR.

### **III. What are the Requirements for RH SIPs Submitted under 40 CFR 51.309?**

As discussed above, the GCVTC had numerous recommendations for protecting the 16 Class I areas of the Colorado Plateau that EPA adopted as part of the Section 309 RHR. This proposed action only addresses the requirements pertaining to programs related to fire of 40 CFR 51.309(d)(6). Pursuant to 40 CFR 51.309(d)(6), a state must show that its smoke management program and all federal or private programs for prescribed fire in the state have a mechanism in place for evaluating and addressing the degree of visibility impairment from smoke in their planning and application of burning. A state must also ensure that its prescribed fire smoke

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<sup>4</sup> The Colorado Plateau is a high, semi-arid tableland in southeast Utah, northern Arizona, northwest New Mexico, and western Colorado. The 16 mandatory Class I areas are as follows: Grand Canyon National Park, Mount Baldy Wilderness, Petrified Forest National Park, Sycamore Canyon Wilderness, Black Canyon of the Gunnison National Park Wilderness, Flat <sup>4</sup>Tops Wilderness, Maroon Bells Wilderness, Mesa Verde National Park, Weminuche Wilderness, West Elk Wilderness, San Pedro Parks Wilderness, Arches National Park, Bryce Canyon National Park, Canyonlands National Park, Capital Reef National Park, and Zion National Park.

management programs have at least the following seven elements: actions to minimize emissions, evaluation of smoke dispersion, alternatives to fire, public notification, air quality monitoring, surveillance and enforcement, and program evaluation.

States must include in their section 309 plan a statewide process for gathering the essential post-burn activity information to support emissions inventory and tracking systems. States must identify existing administrative barriers to the use of non-burning alternatives and adopt a process for continuing to identify and remove administrative barriers where feasible. The SIP must include an enhanced smoke management program, which means the smoke management program considers visibility and is based on the criteria of efficiency, economics, law, emission reduction opportunities, land management objectives, and reduction of visibility impairment. States must also adopt a process to establish annual emission goals to minimize emission increases from fire.

#### **IV. EPA's Analysis of the State's Submittals**

##### **A. Background of Submittals**

On December 12, 2003, the State of Utah submitted a RH SIP intended to meet all of the requirements under 40 CFR 51.309. This submittal adopted SIP section XX- *Regional Haze* as well as UAC R-307-204 *Emissions Standards: Smoke Management*. The State revised the smoke management requirements of R307-204 in a May 8, 2006 submittal and then again in its September 29, 2011 submittal. The September 29, 2011 submittal supersedes and replaces the R307-204 portion of the December 12, 2003 submittal and all of the May 8, 2006 submittal. R307-204 contains provisions necessary to meet the requirements of 40 CFR 51.309(d)(6) which pertain to smoke management.

Section XX.G – *Long-Term Strategy for Fire Programs* of the State’s RH SIP also contains provisions necessary to meet the requirements of 40 CFR 51.309(d)(6). The State originally submitted Section XX.G with its December 12, 2003 RH SIP submittal. The State resubmitted this section with subsequent SIP revisions on September 9, 2008 and May 26, 2011. Section XX.G of the May 26, 2011 submittal supersedes and replaces Section XX.G of the December 12, 2003 and September 9, 2008 submittals.

EPA will be taking action on the remainder of the December 12, 2003, September 9, 2008, and May 26, 2011 submittals at a later date.

## **B. Requirements under 40 CFR 51.309(d)(6)**

### **1. Evaluation of Current Fire Programs**

Pursuant to 40 CFR 51.309(d)(6)(i), the State of Utah has evaluated all federal, state, and private prescribed fire programs in the State. The State based the evaluation on the potential of the programs to contribute to visibility impairment in the 16 mandatory Class I areas of the Colorado Plateau and how visibility protection from smoke is addressed in planning and operation of the programs. The State relied upon the WRAP report *Assessing Status of Incorporating Smoke Effects into Fire Planning and Operation* (found in section G of the Utah Technical Support Document (TSD)) as a guide for making this evaluation. The State of Utah also evaluated whether these prescribed fire programs contain the following elements: actions to minimize emissions; evaluation of smoke dispersion; alternatives to fire; public notification; air quality monitoring; surveillance and enforcement; and program evaluation.

Based on this evaluation, the State adopted R307-204<sup>5</sup>. The State also adopted the *Utah Enhanced Smoke Management Plan* (ESMP) (found in Section G of the Utah TSD). The ESMP

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<sup>5</sup> The rule was adopted by the Air Quality Board (AQB) in November 2003. Amendments to R307-204 were adopted by the AQB in April 2006 and July 2011.

serves as a guide for land managers to implement the requirements of R307-204. The following discusses how R307-204, in conjunction with the ESMP, meet the requirements of 40 CFR 51.309(d)(6)(i). The following requirements apply to large wildland fire use events<sup>6</sup>, large prescribed fires and large pile burns occurring on wildlands<sup>7</sup>. R307-204 does not apply to agricultural burning as discussed later in this preamble.

a. Actions to minimize fire emissions

R307-204 has two requirements directed at minimizing fire emissions: use of emission reduction techniques<sup>8</sup> by land managers and the establishment by the State of annual emission goals for fire. Land managers must utilize emission reduction techniques as appropriate to minimize fire emissions and provide the State documentation of the techniques used. The State will establish an annual emission goal prior to the beginning of the fire season with the intention of minimizing emission increases from fire. The State will establish the annual emission goal in cooperation with other states, federal land management agencies, and private entities. To establish the goal, the State will determine if there are feasible emission reduction techniques for upcoming prescribed fire projects and will quantify the benefit from using the techniques.

b. Evaluation of Smoke Dispersion

R307-204 requires land managers to submit burn plan information for approval from the executive secretary prior to ignition of any large burn in accordance with 40 CFR 51.309(d)(6)(ii). The pre-burn information must identify any sensitive receptor, including any Class I or non-attainment area within 15 miles, distance and direction of the sensitive receptor in

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<sup>6</sup> Wildland Fire Use Event means naturally ignited wildland fire that is managed to accomplish specific pre-stated resource management objectives in predefined geographic areas.

<sup>7</sup> Large Prescribed Fires are fires that cover 20 acres or more per burn. Large Prescribed Pile Fires are fires that exceed 30,000 cubic feet per day. Large Wildland Fire Use Events are those greater than 20 acres.

<sup>8</sup> An Emission Reduction Technique is a technique for controlling emissions from prescribed fires to minimize the amount of emissions produced per unit or acre burned

degrees from the project site, and a map that shows the daytime and nighttime smoke path and down-drainage flow for a minimum of 15 miles from the burn site. This information, in addition to the fire prescription<sup>9</sup> that is submitted as part of the burn plan prepared by the land manager, provides field level data that is essential for determining the dispersion of smoke from a fire and what areas it may potentially impact. Land managers are also required by R307-204 to use smoke or visibility modeling to predict the impacts of the fire.

c. Alternatives to Fire

Pursuant to R307-204-4(4), beginning in 2004 and annually thereafter, each land manager is required to submit to the executive secretary a list of areas treated using non-burning alternatives to fire during the previous calendar year, including the number of acres, the specific types of alternatives used, and the location of these areas.

d. Public Notification of Burning

Utah provides public information on current burning on a website at <http://www.utahfireinfo.gov>. In addition, land managers must include public notification procedures in their burn plan required by R307-204.

e. Air Quality Monitoring

Pursuant to R307-204, land managers shall monitor the effects of the prescribed fire on smoke sensitive receptors and on visibility in Class I areas. The method of monitoring, either visual or with instrumentation, is specified as part of the burn plan.

f. Surveillance and Enforcement

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<sup>9</sup> Fire Prescription means the measurable criteria that define conditions under which a prescribed fire may be ignited, guide selection of appropriate management responses, and indicates other required actions. Prescription criteria may include safety, economic, public health, environmental, geographic, administrative, social, or legal considerations.

State staff conduct site inspections on prescribed fires that are close to Class I areas to verify compliance with the burn plan on an as-needed basis. The State generates reports after the inspection with the results of that inspection.

g. Program Evaluation

The State in conjunction with land managers will conduct an annual effectiveness review of the smoke management programs in the State. A formal progress report will be completed every five years as required by 40 CFR 51.309(d)(10)(ii).

h. Agricultural Fire

The WRAP emission inventory shows that agricultural burning is a very small portion of total emissions in Utah. According to the WRAP inventory, Utah agriculture burning accounts for only .25% of Utah's total emissions of PM, PM<sub>2.5</sub>, SO<sub>2</sub>, NO<sub>x</sub>, VOC, and carbon monoxide. Utah's agriculture emissions comprise approximately three-quarters of a percent to one percent of the WRAP region emissions for agriculture burning for the same pollutants as those listed above. The State has concluded from this information that agricultural burning does not significantly contribute to visibility impairment in any Class I area. Thus, agricultural land managers are not subject to the R307-204 or other State requirements for smoke management.

## 2. Emission Inventory and Tracking System

a. Wildlands Inventory

Pursuant to 40 CFR 51.309(d)(6)(ii) and R307-204, the State maintains a fire emissions inventory for volatile organic compounds, nitrogen oxides, elemental and organic carbon, and fine particulate. The fires in the State are tracked in the WRAP Fire Emission Tracking System (FETS). The FETS is a web-enabled database for planned and unplanned fire events. The FETS is a planning tool for daily smoke management coordination, and retrospective analyses such as

emission inventories and regional haze air quality planning tasks (see <http://wrapfets.org>).

#### b. Agricultural Lands Inventory

To meet the requirements of 40 CFR 51.309(d)(6)(ii), the State will work collaboratively with the Utah Farm Bureau Federation and Utah State University Extension to develop and implement an inventory and emissions tracking system for agricultural burning. A survey conducted in 2003 by the Utah State University Extension, in collaboration with the Utah Farm Bureau Federation, will be used by the State as a baseline for future emissions tracking activities. The State will conduct emission tracking activities on a periodic basis to determine if any significant changes have been made since the 2003 survey. Results from the periodic emission tracking activities will be provided in future progress reports to EPA required by 40 CFR 51.309(d)(10).

### 3. Identification and Removal of Administrative Barriers

The State and land managers for fire will annually assess whether administrative barriers to the use of non-burning alternatives exist. If a specific administrative barrier is identified as a result of this annual evaluation, the State will investigate how this barrier may be removed, if feasible, and will work collaboratively with land managers to remove the barrier as required by 40 CFR 51.309(d)(6)(iii). An evaluation of the administrative barriers to the use of the non-burning alternatives, if any, will be included in the formal progress report to EPA every five years as required by 40 CFR 51.309(d)(10).

### 4. Enhanced Smoke Management Program

Pursuant to 40 CFR 51.309(d)(6)(iv), the State has determined that all smoke management programs that operate within Utah are consistent with the *WRAP Enhanced Smoke Management Programs for Visibility Policy* (see Section G of the Utah TSD for a complete copy

of this policy). This policy calls for programs to be based on the criteria of efficiency, economics, law, emission reduction opportunities, land management objectives, and reduction of visibility impacts.

## **5. Annual Emission Goals**

R307-204 requires the State to establish annual emission goals in accordance with 40 CFR 51.309(d)(6)(v). Pursuant to the State's ESMP, the annual emission goals will seek to minimize emission increases in fire, excluding wildfire, to the maximum extent feasible.

Based on our analysis and evaluation of section XX.G of the Utah May 26, 2011 SIP submittal and R307-204 of the September 29, 2011 submittal, EPA concludes that the State has met all of the requirements of 40 CFR 51.309(d)(6).

## **V. Proposed Action**

EPA is proposing to approve a SIP revision submitted by the State of Utah on September 29, 2011. The September 29, 2011 revision establishes rule R307-204 of the Utah Administrative Code (UAC). R307-204 contains smoke management requirements for land managers within the State of Utah as required by 40 CFR 51.309(d)(6) for regional haze. The September 29, 2011 submittal supersedes and replaces R307-204 submitted as part of the State's December 12, 2003 regional haze SIP. The September 29, 2011 submittal also supersedes and replaces the State's May 8, 2006 submittal of R307-204. EPA is also proposing to partially approve a SIP revision submitted by the State of Utah on May 26, 2011. Specifically, EPA is proposing to approve section XX.G of the State's Regional Haze (RH) SIP which contains the State's long-term strategy for fire programs as required by 40 CFR 51.309(d)(6). The May 26, 2011 submittal supersedes and replaces SIP revisions to section XX.G of the RH SIP submitted by the State on December 12, 2003 and September 9, 2008.



## **VI. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations (42 USC 7410(k), 40 CFR 52.02(a)). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely approves some state law as meeting Federal requirements and disapproves other state law because it does not meet Federal requirements; this proposed action does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 USC 3501 et seq.);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 USC 601 et seq.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999); is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and

Advancement Act of 1995 (15 USC 272 note) because application of those requirements would be inconsistent with the CAA; and,

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal law.

#### **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: October 28, 2011.

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James B. Martin  
Regional Administrator  
Region 8

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